

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

| | | |
|--|---|---------------------|
| In the Matter of |) | |
| |) | |
| Advanced Methods to Target and Eliminate |) | CG Docket No. 17-59 |
| Unlawful Robocalls |) | |
| |) | |
| Call Authentication Trust Anchor |) | WC Docket No. 17-97 |

REPLY COMMENTS OF SECURUS TECHNOLOGIES, INC.

Securus Technologies, Inc. (“Securus”), by its undersigned counsel, submits these reply comments in response to comments on the Declaratory Ruling and Third Further Notice of Proposed Rulemaking (“Declaratory Ruling and Third FNPRM”) released in the above-captioned dockets on June 7, 2019, by the Federal Communications Commission (“FCC” or “Commission”) and published in the Federal Register on June 24, 2019 (84 Fed. Reg. 29387). As the record demonstrates, there is a real risk that lawful and often important calls may inadvertently be blocked by voice service providers seeking to combat the scourge of unlawful robocalls. The Commission must ensure that its efforts to combat unlawful robocalls do not have the unintended consequence of harming consumers by enabling the blocking of lawful and often important calls.

I. A Safe Harbor Based Solely on the SHAKEN/STIR Framework Would Harm Consumers.

Commenters largely agree that it is premature for the Commission to permit voice service providers to block calls *solely* due to failed authentication/verification under the SHAKEN/STIR Framework.¹ This is because: (1) the SHAKEN/STIR Framework is not yet fully developed; (2)

¹ See e.g., Comments of ACA Connects at 7; Comments of First Orion at 2-3 (stating that the Framework can “meaningfully reduce robocalls” but only after the Framework is broadly deployed and where the Framework is used in conjunction with other call-blocking analytical tools); Comments of SiriusXM at 5 (opposing a safe harbor based solely on SHAKEN/SHIR “at this point in time”); Comments of Transaction Network Services at 3; Comments of USTelecom at 6 (stating that the Framework is

the SHAKEN/STIR Framework is not yet widely deployed (and it is unclear when industry-wide deployment will be completed); and (3) blocking calls based solely on a lack of SHAKEN/STIR authentication is highly likely to result in blocking of lawful and legitimate calls because the SHAKEN/STIR Framework is not reliably capable of distinguishing between legitimate and illegitimate calls.

Commenters generally agree that the SHAKEN/STIR Framework is not sufficiently developed at this time to serve as the basis for a call blocking safe harbor.² As several commenters note, voice service providers (such as Securus) that purchase telephone numbers from other voice service providers currently cannot participate in the SHAKEN/STIR Framework, as protocols for certificate delegation do not yet exist. For example, the Voice on the Net Coalition aptly recognizes that “[u]ntil certificate delegation or a trusted carrier registry is adopted as part of the SHAKEN/STIR framework, voice service providers who get their telephone numbers from wholesale providers won’t be able to fully implement SHAKEN or sign calls.”³ The SHAKEN/STIR Framework currently also lacks solutions for enterprise calling systems.⁴ It is entirely unclear if, or when, such delegation protocols will be established and deployed.

“ineffective by itself as the single input for voice service providers to make a sound determination whether to block a call”).

² Comments of the Voice on the Net Coalition at 1 (noting that “much work need[s] to be done” including finalizing the process and pricing for issuance of service provider certificates and tokens, service provider acceptance testing, international adoption, and delegated certificate or trusted carrier registry); See also Comments of Credit Union National Association at 3 (stating that the SHAKEN/STIR governance structure “contemplates certificates issued by designated and trusted certification authorities that have yet to be established”).

³ Comments of the Voice on the Net Coalition at 3. *See also* Comments of RingCentral at 5 (urging the Commission to require a competitively-neutral mechanism for voice service providers that may not originate all of their calls on their own networks to obtain delegate certification or otherwise access to the highest levels of attestation).

⁴ Comments of Credit Union National Association at 3.

Commenters also agree that use of the SHAKEN/STIR Framework as the basis for a call-blocking safe harbor is premature due to the lack of widespread deployment.⁵ As the FNPRM recognizes in seeking comment on a SHAKEN/STIR implementation mandate, many voice service providers have not deployed the SHAKEN/STIR Framework throughout their networks and it is unclear when all voice service providers will be capable of doing so. Other commenters acknowledge that voice service providers are still in the early stages of deployment.⁶ It is unclear when issues that impact the efficacy of the Framework, such as the transition from TDM to IP-based networks and interconnection, will be resolved.⁷

Finally, even commenters generally supportive of establishing a safe harbor agree that looking to SHAKEN/STIR as the *sole* basis for determining whether a call should be blocked misses the intent of the Framework.⁸ Transaction Network Services states that the Framework was “not designed to carry the weight such a rule would impose.”⁹ As T-Mobile acknowledges, the “STIR/SHAKEN protocols cannot be used to identify ‘bad actors;’ they can only be used to determine if a call originates from a spoofed number.”¹⁰ As a result, “some properly authenticated

⁵ Comments of ACA International at 5 (stating that a safe harbor based on SHAKEN/STIR should be adopted only after the Framework is universally deployed); Comments of American Bankers, *et al* at 3-4 (opposing blocking of unsigned calls until SHAKEN/STIR is fully implemented); Comments of Consumer Bankers Association at 3-4 (opposing a safe harbor until SHAKEN/STIR is fully implemented).

⁶ Comments of Transaction Network Services at 5.

⁷ See generally Comments of NTCA-The Rural Broadband Association; Comments of WTA-Advocates for Rural Broadband. See also Comments of NCTA at 6 (stating that many calls today are “simply not capable of being authenticated” because providers are not yet working at scale for SHAKEN/STIR traffic exchange and traffic that transits TDM will lack proper authentication until those networks transition to IP interconnection).

⁸ Comments of USTelecom at 2 (stating that “the SHAKEN/STIR standard is not designed – and was never intended to – determine intent or on a stand-alone basis or to be used to automatically keep calls from completing”).

⁹ Comments of Transaction Network Services at 3.

¹⁰ Comments of T-Mobile at 8.

calls may in fact be illegal robocalls. And calls that have not been authenticated per the standard may be legitimate and important calls that should not be blocked.”¹¹

Therefore, in the event that the Commission were to adopt a safe harbor for voice service providers that engage in call-blocking, the Commission must require voice service providers to do more than just look to results of SHAKEN/STIR authentication and verification.¹² Otherwise, there is the potential for “serious unintended consequences.”¹³

If the Commission were to establish a safe harbor based on the use of the SHAKEN/STIR Framework in combination with other analytics efforts, the Commission must provide further guidance on the meaning of “reasonable analytics” that could be used to support call-blocking under the safe harbor. Specifically, the Commission should seek further public comment before adopting a safe harbor regarding how call blocking analytics work today to ensure that legitimate calls that share similar characteristics as unlawful robocalls (such as large numbers of calls originating from a single telephone number in a short time, calls with low call duration, automated voice calls) are not inadvertently blocked. After seeking further comment, the Commission could provide guidance regarding the use of analytics to make call-blocking decisions that would be protected from liability pursuant to the safe harbor.

II. Any Safe Harbor Must Be Accompanied by a Requirement for Voice Service Providers to Implement a Mechanism to Correct Erroneous Call Blocks.

The record reflects broad agreement across providers, consumer advocates, and other stakeholders that an increase in blocking of legitimate calls is an inevitable result of increased

¹¹ Comments of USTelecom at 2.

¹² Comments of First Orion at 4 (stating that the Commission should not encourage providers to block or label calls based solely or primarily on SHAKEN/STIR).

¹³ Comments of AT&T at 8.

efforts by carriers to address illegal robocalls.¹⁴ Securus agrees with SiriusXM that “[a] telephone system that routinely fails to deliver lawful calls fails the promise of our common carriage telephone network just as much as a system flooded by illegal ones.”¹⁵ Even CTIA (which generally supports providing a safe harbor for carriers that engage in blocking) admits that “as providers implement more call-blocking tools, the volume of blocked calls will increase, as well as the reality that some legitimate calls may be inadvertently blocked.”¹⁶ As discussed further above, the potential for erroneous blocks would be further increased if voice service providers engaged in blocking at this time solely based on the results of SHAKEN/STIR authentication and verification.¹⁷ Before providing any additional safe harbor(s) for call blocking, the Commission must ensure that a mechanism is in place to detect and remedy the erroneous blocking of calls.¹⁸ Some voice service providers and their representatives agree.¹⁹

¹⁴ See e.g., Comments of Sprint at 2 (“While there is unquestionably a need to address the flood of robocalls, any system that blocks a large volume of inbound calling will inevitably result in the blockage of some number of legitimate calls.”); Comments of T-Mobile at 8 (stating that “however advanced the analytics used by carriers to block calls, there will always be some risk that legitimate calls are inadvertently blocked”); Comments of Verizon at 12 (recognizing that “errors do occur ... with even the most sophisticated call blocking analytics”).

¹⁵ Comments of SiriusXM at 2.

¹⁶ Comments of CTIA at 9.

¹⁷ Comments of Noble Systems Corporation at 10 (stating that blocking calls using only the results of SHAKEN/STIR verification may result in over-blocking, particularly in the early stages of SHAKEN/STIR deployment).

¹⁸ See e.g., Comments of the Cloud Communications Alliance at 9 (urging implementation of an effective and timely mechanism to address erroneous call-blocking or call-labeling); Comments of Credit Union National Association at 1-2, 5 (urging adoption of a requirement for providers to implement a timely and effective mechanisms to reverse inadvertent blocking of legitimate communications); Comments of SiriusXM at 7 (seeking a requirement that callers be immediately notified when their calls are blocked as for carriers to “have clear procedures governing how they respond to complaints”).

¹⁹ Comments of the American Association of Healthcare Administrative Management at 5-6; Comments of NCTA at 10 (advocating for requiring providers to provide a point of contact for reporting erroneous blocking and a mechanism for resolving complaints); Comments of NTCA-The Rural Broadband Association at 15 (explaining the difficulties in consumers’ ability to remedy erroneous blocks and stating that providers that voluntarily choose to engage in call-blocking should be required to establish a process for rapidly correcting false positives); Comments of Twilio at 2 (supporting limiting the safe harbor only to where “the voice service provider has provided a mechanism for identify and remedying the blocking of wanted calls”); Comments of West Telecom at 22 (urging establishment of a “self-effectuating rapid-

Commenters propose different approaches to how such a mechanism should be structured or work.²⁰ For example, the Consumer Bankers Association would require voice service providers to notify the calling party and intended call recipient of the block and to remove the erroneous block or spam designation within 24 hours.²¹ Although it may not make sense for the Commission to mandate a single method or mechanism for remedying all erroneous call blocks, the record shows strong support for the Commission requiring – if it were to provide a safe harbor – voice service providers to establish an effective, cost-free mechanism for consumers and other service providers (on behalf of their customers) to seek swift remediation of erroneous call blocks *before* the blocking provider can take advantage of the safe harbor.

Voice service providers should be required to provide prompt notice to the affected callers and call recipients, and unblock lawful calls following receipt of a facially valid challenge in a reasonable time frame (which should be measured in hours, not days).²² In the case of inmate calling service calls, due to the unique nature of these calls (e.g., that such calls originate from a single telephone number per location and inmates are limited on the telephone numbers they can dial such that it would be infeasible for inmates to contact the provider that blocked a given call), providers that block such calls should be required to notify both the intended call recipient and the underlying inmate calling service provider. Securus also agrees that any voice service provider seeking to take advantage of the safe harbor should be required to report to the Commission the

response complaint resolution system for erroneously blocked calls”); Comments of WTA-Advocates for Rural Broadband at 7 (urging the Commission to require “the blocking provider to send a message to both the blocked carrier and the customer notifying him or her that the call was blocked”);

²⁰ See e.g., Comments of Massachusetts Department of Telecommunications and Cable at 6 (urging the Commission to require real time notifications that calls have been blocked and an easily accessible website or app where customers can securely access the list of blocked calls and to request that the provider block or unblock a telephone number).

²¹ Comments of Consumer Bankers Association at 4.

²² See Comments of SiriusXM at 8 (urging that voice service providers be required to resolve erroneous blocks within two business days).

number of calls and subscribers impacted by call blocking so that the Commission can study the effects of its call-blocking policies.²³ Finally, the Commission should establish an expedited complaint process to serve as a backstop for circumstances in which the voice service providers' response to an unblock request made by a caller, intended call recipient, or other service provider is inadequate.²⁴

III. The Commission Should Seek Focused Comment on Establishing a Critical Calls List to Ensure Certain Calls are Never Blocked.

Although commenters disagree on the specifics regarding establishment of a "Critical Calls List", commenters generally agree that such a list should be centrally maintained by the Commission or another body (such as the North American Numbering Council) rather than developed and maintained individually by voice service providers.²⁵ Securus agrees that the Commission should work with stakeholders to seek further input on establishing a centralized Critical Calls List and address questions regarding the scope of the list and confidentiality concerns.²⁶

²³ See Comments of First Orion at 15 (urging a holistic solution that includes reporting the number of subscribers protected and the number of calls blocked, labeled or otherwise treated differently).

²⁴ See Comments of Incompas at 8-9.

²⁵ See Comments of ACT Association at 6 (supporting a centralized list available only to providers of solutions to the illegal robocalls problem); Comments of Comcast at 12 (supporting a centralized Critical Calls List to avoid blocking communications, along with a mechanism to add numbers to the list); Comments of NCTA at 11 (urging facilitation of a Critical Calls List maintained centrally by the Commission or an authority designated by the Commission); Comments of PACE at 7 (supporting a Critical Calls List created and maintained by the Commission); Comments of Transaction Network Services at 10-11 (supporting a single-uniform Critical Calls List overseen by the Commission); Comments of Twilio at 3 (encouraging the Commission to refer development of a Critical Calls List to the North American Numbering Council); Comments of USTelecom at 3 (stating that if the Commission were to establish a Critical Calls List, it should be non-public and centrally maintained by the Commission or a recognized public safety organization).

²⁶ See Comments of CTIA at 19-21; Comments of T-Mobile at 9 (supporting the Commission to seek input from industry stakeholders).

IV. Conclusion

The Commission and industry should be applauded for their ongoing efforts to stop the continued onslaught of illegal and unwanted robocalls. Nonetheless, stakeholders across the spectrum remain concerned about the likelihood for lawful and legitimate calls being swept up in call-blocking processes if the Commission does not carefully calibrate its rules and any safe harbors for providers that engage in call-blocking. Accordingly, the Commission must avoid providing a safe harbor for providers that use SHAKEN/STIR Framework as a singular basis for blocking calls. Before adopting a safe harbor, the Commission should also seek further comment regarding the factors evaluated by call-blocking analytics programs used by voice service providers and their vendors to understand the likelihood of legitimate calls inadvertently being labeled as spam or blocked. Furthermore, any safe harbor must be accompanied by robust protections and a swift process for correcting erroneous blocks. Finally, the Commission should work with industry and other relevant stakeholders to develop a workable approach to developing a centrally-maintained and confidential Critical Calls List.

Respectfully submitted,

/s/Andrew D. Lipman

Andrew D. Lipman
Patricia Cave
MORGAN, LEWIS & BOCKIUS LLP
1111 Pennsylvania Ave, NW
Washington, DC 20004
(202) 739-3000 (Tel)
(202) 739-3001 (Fax)
andrew.lipman@morganlewis.com
patricia.cave@morganlewis.com

Counsel for Securus Technologies, Inc.

Dated: August 26, 2019